

The application is for full planning permission for the erection of a new foodstore (Class A1 use) with associated car parking, servicing and landscaping, and a zebra crossing over Blackfriars Road approximately 20m from the roundabout. The site area measures 8,345m<sup>2</sup>, and is the site of the former Blackfriars Bakery and Sutherland Arms public house, situated at the junction of Blackfriars Road and Lower Street adjoining the Lyme Brook.

The proposed single storey store has a gross internal floor area of 1,534m<sup>2</sup> and a net sales area of 1,140m<sup>2</sup>. Two accesses are proposed, off Blackfriars Road (access only) and off Lower Street (access and egress). A parking area of 112 parking spaces is proposed (including 7 disabled and 9 parent and child spaces).

The site is within the urban area; adjacent to the Conservation Area and within the Pool Dam Waterside Quarter as defined in the Newcastle-under-Lyme Town Centre Supplementary Planning Document (SPD) and identified as a key site in that document.

**This application was considered by the Planning Committee at its meeting on 10<sup>th</sup> December 2013 and was the subject of a positive resolution by the Committee subject to the objections of the Environment Agency being withdrawn by 31<sup>st</sup> January 2014 and to a Section 106 obligation being secured by the same date.**

**The 13 week period for the determination of the planning application expired on 9<sup>th</sup> December 2013.**

### **RECOMMENDATIONS**

**1. That the period for the applicant first entering into Section 106 obligations by agreement be extended to 7<sup>th</sup> March 2014 and that such obligations secure the following as agreed by the Planning Committee at its meeting on the 10<sup>th</sup> December 2013:**

- **A contribution of £46,552 towards the Newcastle (urban) Transport and Development Strategy (NTADS) (or other such amount which is considered to be reasonable)**
- **A Travel Plan monitoring fee of £2,150**
- **The use of Automatic Number Plate Recognition system to ensure to restrict parking to a 90 minutes shoppers car park or other car park management system that is agreed by the Local Planning Authority.**
- **A contribution of £76,000 for improvements to the 2 nearest subways under Lower Street**
- **The provision of a footpath within the site in the future should the opportunity arise.**

**2. That, subject to the obligations being secured by 7<sup>th</sup> March 2014, and the objections raised by the Environment Agency with regards to the Flood Risk Assessment being withdrawn by 7<sup>th</sup> March 2014, planning permission be granted subject to the same conditions as agreed on 10<sup>th</sup> December 2013.**

**3. In the event that the Environment Agency's objections are not withdrawn by 7<sup>th</sup> March 2014 the application be brought back to the Committee for reconsideration.**

**4. Failing completion by 7<sup>th</sup> March 2014 of the above planning obligations, that the Head of Planning be given delegated authority to refuse the application on the grounds that in the absence of such the proposal fails to make an appropriate contribution to the Newcastle (urban) Transport and Development Strategy (NTADS) which seeks to improve local**

**accessibility and promote the most sustainable modes of travel: secure improvements to the subway and thereby failing to adequately improve connectivity to the town centre; and fail to secure the opportunity to rediscover the potential of the Lyme Brook and improve connectivity in the future should the opportunity arise; or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.**

### **Reason for Recommendations**

To enable further time to be given for the Environment Agency to withdraw their objections and to complete the Section 106 obligation.

### **Proposed Statement as to how the Local Planning Authority has worked with the applicant in a positive and proactive manner in dealing with this application**

Pre-application discussions took place with the applicant as well as discussions during the course of the application, taking into account the guidance to be found within the NPPF on the approach to be adopted.

### **Key Issues**

The resolution of the Committee on the 10<sup>th</sup> December 2013 was, in part, that subject to the prior completion of a Section 106 Obligation by the 31<sup>st</sup> January 2014, planning permission be granted subject to various conditions. The obligation has, however not been completed within this period although the applicant's legal advisors are actively pursuing the matter and progress has and continues to be made.

In addition to the requirement to enter into a Section 106 obligation the resolution of Committee also required that the objection received from the Environment Agency (EA) had to have been withdrawn by the 31<sup>st</sup> January 2014 before planning permission could be issued, and in the event that didn't happen Committee resolved that the application be brought back to Planning Committee for reconsideration.

The site is located within Flood Zone 3, an area of land at 'high' risk of flooding albeit that the site lies behind an EA flood defence structure with an original design standard of 1 in 100 years. Flood modelling commissioned and undertaken on behalf of the applicant has confirmed that the majority of the site is located within Flood Zone 3 and acknowledges that some of the site is what is termed functional floodplain. As part of this exercise an inspection of the flood defences noted that the level of defence was estimated to be closer to the 1 in 75 year standard rather than offering protection up to the 1 in 100 years event. The EA advise that no specific information had been submitted in regard to the crest level of the defence nor has an assessment of the likely impact of the defence overtopping or being breached carried out. In the absence of such an assessment and any proposed flood compensation that would mitigate for the loss of floodplain storage arising from the development, the EA have objected to the proposed development seeking additional information from the applicant.

Whilst it is understood that discussions are taking place between the applicant and the EA and additional information has recently been sent directly to them they have not yet come back to the Council with any further comments. In the absence of EA confirming that it has been demonstrated that the development will not increase flooding risk elsewhere, and where possible reduces flood risk overall (i.e. according with the guidance set out in the NPPF) their objection remains in place. In the light of that the application is reported back to Committee in accordance with the resolution.

The applicant submits that the Council has approved in principle the store scheme, it therefore views the proposal as positive, and a failure to meet the 31<sup>st</sup> January deadline, should not prevent the development from proceeding. They ask that the original timescale be extended by not less than two months as being a realistic timeframe to complete the Section 106 and to enable the Environment Agency to either draft an appropriate condition to mitigate the flood risk issues or to withdraw its objection

Your Officer notes that there has been no material change in the relevant planning circumstances since this application was last considered in December and it is considered appropriate to give a limited additional time period for completion of the obligation and for further comments of the Environment Agency to be received, and then considered by your officers. Members will note that the time period recommended is less than that sought by the applicant. Local Planning Authorities are under an obligation to determine applications in a timely manner, some considerable time has already passed since the Environment Agency's objection was received, and it is important that changes in planning circumstances are able to be taken into account. A two month extension is more than is considered appropriate although it is recognised that a five week period will be challenging.

#### Background Papers

Planning files referred to  
Planning Documents referred to

#### Date revised report prepared

4<sup>th</sup> February 2014